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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,049	03/26/2004	Graziano Marusi	043001/0024 SBP/CEC/JEL	7895
7590 Steven B. Pokotilow Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, NY 10038			EXAMINER NGUYEN, THONG Q	
			ART UNIT 2872	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/810,049	Applicant(s) MARUSI ET AL.	
	Examiner Thong Q. Nguyen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 5/29/07. It is noted that in the amendment, applicant has amended claims 1, 19 and 24 and added a new set of dependent claims, i.e., claims 27-29, into the application. There is not any claim being canceled. The pending claims 1 and 3-28 are examined in this Office action. Note that claim 2 was canceled in the amendment of 8/4/06.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-7, 9, 16-17, 19, 20, 22, 24, 27-28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima (U.S. Patent No. 4,805,989, of record).

Nakajima discloses a multi-layer thin film. The thin film as described in columns 3-4 and shown in figs. 1(a) and 4 comprises the following features: a) Five layers (2-6) of high and low refractive indexes arranged alternatively on a transparent substrate (1), see fig. 1(a); b) the multi-layer thin film reflects an amount of less than 15% of spectral ultraviolet light in a range of 350 to 400 nm, and reflects an amount of greater than 10% of light in the visible range in a range of 410 to 750 nm (see fig. 4); c) Regarding to the materials of the high and low refractive index of the layers, in column 3, lines 55+ through column 4, lines 2, Nakajima discloses that the material of the high refractive index layer is TiO_2 , TaO_5 , ZrO_2 ...and the material of the low refractive index layer is

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MgF₂, SiO₂,...; and d) Regarding to the number of layers used in the film, in column 3, lines 50-54, Nakajima discloses that the number of layers is composed of four to eight dielectric layers in a laminated relationship having alternatively different reflective indices. The only feature missing from the device provided by Nakajima is that he does not explicitly teach that the multilayer thin film is used with a photochromic lens as claimed.

However, it is noted that all of the important and critical features recited in the claims are directed to the multilayer thin film and not to the so-called "photochromic lens" referred to in the claims. It is also noted that the claims have not disclosed any specific feature related to the structure of the so-called "photochromic lens". Further, absent of any critical features related to the photochromic lens then the structure related to the multilayer thin film as recited in the claim is able to use with other optical element such as a mirror, a windshield of an automobile, a window of a building, a protective window for a detecting system,...

Thus, while Nakajima does not explicitly teach that the multilayer thin film is used with a photochromic lens as claimed; however, it would have been obvious to one skilled in the art at the time the invention was made to utilize the multilayer thin film as provided by Nakajima on any kind of lenses including a photochromic lens for the purpose of exhibiting a visible colored appearance when observed the optical element in the form of the lens from a side opposite to the lens.

Regarding to the method as recited, while the combined product does not clearly set forth the step of creating a colored photochromic lens; however, it would have been

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obvious to one skilled in the art at the time the invention was made to make the multilayer thin film as provided by Nakajima by alternatively applying a plural layers made by high and low refractive materials on a photochromic lens for the purpose of obtaining a photochromic lens wherein the layers do not adversely affect the original photochromic activity of the lens.

4. Claims 8, 10, 18, 21, 23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima.

The antireflection multilayered film as provided by Nakajima does not disclose that the number of layers in the film is twelve or one hundred as claimed.

However, the number of layers of the film as claimed is merely that of preferred embodiment and no criticality has been disclosed. The support for that conclusion is found in the present specification in which applicant has declared that the number of layers is not critical/important as can be seen in the present specification in page 10, section [0030]. It is also noted that such a non-criticality of the number of layers is indeed claimed in the present claims. For instance, the number of layers can be four as claimed in present claim 10. Thus, absent of any criticality, it would have been obvious to one skilled in the art at the time the invention was made to modify the antireflection multilayered film provided by Nakajima by using any combination of numbers of layers as desired for the purpose of adjusting the ability of antireflection light of the film.

5. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima.

The antireflection multilayered film as provided by Nakajima does not explicitly state that the multilayered film has an activation value greater than 25% or equal to the activation value of a photochromic lens as claimed in present claims 11-15. However, such features are considered as an inherent feature from the use of a multilayered film provided by Melzig et al and Andreani et al. The support for that conclusion is found in the structure of the multilayered film provided by Nakajima comprises a number of alternative low and high refractive indices with the materials of SiO_2 and TiO_2 which is identical to the structure of the film as recited in the present claims. Since a similarity and/or identity in structure will yield the same function and/or result, one skilled in the art will expect that the activation value of the film provided by Melzig et al and Andreani et al is greater than 25% of the activation value of the photochromic lens. If it is not inherent then one skilled in the art will recognize that the change in the activation value of the film with respect to that of a photochromic lens is able to obtain by just adjusting the number of layers and/or the thickness of the layers used to constitute the film. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the antireflection multilayered film provided by Nakajima by adjusting the number of layers and/or the thickness of the layers used to constitute the antireflection multilayered film for the purpose of adjusting the activation value of the film with respect to that of the lens which lens is coated by such film.

Response to Arguments

6. The amendments to claims 1, 19 and 24 and applicant's arguments with respect to claims 1 and 3-26, now applied to claims 1 and 3-29 as provided in the amendment of 5/29/07, pages 6-8, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

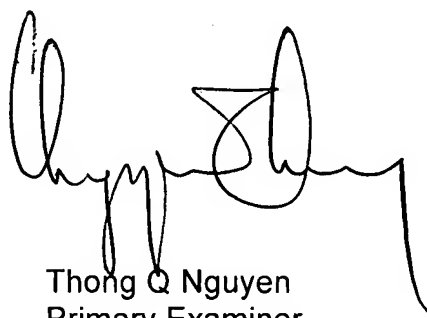
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thong Q. Nguyen', with a stylized, flowing script.

Thong Q. Nguyen
Primary Examiner
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